

1 WILLIAM R. TAMAYO, SBN 084965  
2 DAVID F. OFFEN-BROWN, SBN 063321  
3 LINDA S. ORDONIO-DIXON, SBN 172830  
4 U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
5 San Francisco District Office  
350 The Embarcadero, Suite 500  
San Francisco, CA 94105-1260  
Telephone No. (415) 625-5654  
Fax No. (415) 625-5657

6 Attorneys for Plaintiff

7  
8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE

10 EQUAL EMPLOYMENT  
11 OPPORTUNITY COMMISSION,

12 Plaintiff,

13 v.

14 SIZZLER USA RESTAURANTS, INC.

15 Defendant.

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
FILE ACTION NO. 6142  
COMPLAINT- CIVIL RIGHTS  
EMPLOYMENT DISCRIMINATION

JURY TRIAL DEMAND

19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex, female, and national origin, Mexican, and to provide appropriate relief to Patricia Huizache who was adversely affected by such practices. As alleged below, Defendant SIZZLER USA RESTAURANTS, INC. (SIZZLER) subjected Ms. Huizache to unlawful sex and national origin discrimination which led to her constructive discharge on October 16, 2004.

//

//

//

//

COMPLAINT

1  
2  
3  
4  
5  
6  
7

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§451, 1331, 1337, 1343, and 1345. This action is authorized and instituted pursuant to Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended (Title VII), 42 U.S.C. §2000e-5(f)(1) and (3); and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. §1981a.

8  
9  
10  
11

INTRADISTRICT ASSIGNMENT

2. The employment practices alleged to be unlawful were committed within the State of California, County of San Mateo, City of Redwood City, within the jurisdiction of the United States District Court for the Northern District of California - San Jose Division.

12  
13  
14  
15  
16  
17

PARTIES

3. Plaintiff, Equal Employment Opportunity Commission (EEOC), is the agency of the United States of America charged with the administration, interpretation, and enforcement of Title VII and is expressly authorized to bring this action by Section 706(f)(1) and (3) of Title VII, 42 U.S.C. §2000e-5(f)(1) and (3).

4. At all relevant times, Defendant SIZZLER has continuously been doing business in the State of California, County of San Mateo, City of Redwood City and has continuously had at least fifteen employees.

5. At all relevant times, Defendant SIZZLER has continuously been an employer engaged in an industry affecting commerce within the meaning of Section 701(b), (g), and (h) of Title VII, 42 U.S.C. §2000e-(b), (g), and (h).

18  
19  
20  
21  
22  
23  
24

STATEMENT OF CLAIMS

6. More than thirty days prior to the institution of this lawsuit, Patricia Huizache filed a charge of discrimination with the EEOC alleging violations of Title VII by Defendant SIZZLER. All conditions precedent to the institution of this lawsuit have been fulfilled.

1 7. Since at least April 2004, Defendant SIZZLER has engaged in unlawful practices at its  
2 Redwood City, California location in violation of Section 703(a)(1) of Title VII, 42 U.S.C. §2000e-  
3 2(a). These practices include subjecting Ms. Huizache to a hostile, abusive, intimidating and  
4 offensive work environment because of her sex, national origin and/or a combination of these  
5 bases culminating in her constructive discharge.

6 8. The effect of the practices complained of in paragraph 7 above has been to deprive Ms.  
7 Huizache of equal employment opportunities and otherwise to adversely affect her status as an  
8 employee because of her sex, female, and her national origin, Mexican.

9 9. The unlawful employment practices complained of in paragraph 7, above, were and are  
10 intentional.

11 10. The unlawful employment practices complained of in paragraph 7, above, were and are done  
12 with malice and/or reckless indifference to the federally protected rights of Ms. Huizache.  
13

14 PRAYER FOR RELIEF

15 WHEREFORE, the Commission respectfully requests that this Court:

16 A. Grant a permanent injunction enjoining Defendant Employer, its officers, successors,  
17 assigns, and all persons in active concert or participation with it, from engaging in sex and national  
18 origin discrimination.

19 B. Order Defendant Employer to institute and carry out policies, practices, and programs  
20 which provide equal employment opportunities for its female and Mexican origin employees and  
21 which eradicate the effects of its past and present unlawful employment practices of sex and national  
22 origin discrimination.

23 C. Order Defendant to make whole Ms. Huizache by providing appropriate backpay with  
24 prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to  
25 eradicate the effects of their unlawful employment practices, including but not limited to  
26 reinstatement.  
27  
28

1           D.     Order Defendant Employer to make whole Ms. Huizache by providing compensation  
2 for past and future pecuniary losses resulting from the unlawful employment practices described  
3 above, including medical expenses, with interest, in amounts to be determined at trial.

4           E.     Order Defendant Employer to make whole Ms. Huizache by providing compensation  
5 for past and future non-pecuniary losses caused by the above unlawful conduct, including pain and  
6 suffering, emotional distress, indignity, loss of enjoyment of life, loss of self-esteem, and  
7 humiliation, in amounts to be determined at trial.

8           F.     Order Defendant Employer to pay Ms. Huizache punitive damages for its malicious  
9 and reckless conduct described above, in amounts to be determined at trial.

10          G.     Grant such further relief as the Court deems necessary and proper.

11          H.     Award the EEOC its costs in this action.

12     //

13     //

14     //

15     //

16     //

17     //

18     //

19     //

20     //

21     //

22     //

23     //

24     //

25     //

26     //

27     //

28     COMPLAINT

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.


RONALD COOPER  
General Counsel

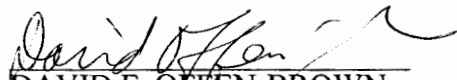
JAMES L. LEE  
Deputy General Counsel

GWENDOLYN YOUNG REAMS  
Associate General Counsel

U. S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
1801 L Street, N.W.  
Washington, D.C. 20507

Date: September 22, 2006

  
WILLIAM R. TAMAYO  
Regional Attorney

  
DAVID F. OFFEN-BROWN  
Supervisory Trial Attorney

  
LINDA ORDONIO-DIXON  
Trial Attorney

U. S. EQUAL EMPLOYMENT  
OPPORTUNITY COMMISSION  
San Francisco District Office  
350 The Embarcadero, Suite 500  
San Francisco, California 94105-1260

COMPLAINT